IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2010

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.1580 of 2001

L.Vadivudaiyal @ Sigappi .. Petitioner
Vs.

1. District Revenue Officer,
Theni.

2. Sub Collector,
Periyakulam.
Theni District.

3. Tahsildar,
Periyakulam,
Theni District.

4. E.M.Suriya Narayana
Vaikundan
5. E.M.Vaikundasamy
6. E.P.Ramanujam
7. Jayaram
8. K.P.P.E. Ramakrishnasamy
Nadar .. Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari directing to call for the records pertaining to N.K.No.44976/99/D5 dated 22.10.2001 issued by the 1st respondent and quash the same.
For Petitioner : Mr.R.Subramanian
For Respondents 1 to 3 : M/s D.Geetha
Additional Government Pleader

For Respondents 4 to 8 : Mr.A.Devadoss

ORDER

The writ petition has been filed by the petitioner challenging the proceedings that have been initiated by the 1st respondent dated 22.10.2001, wherein the Order passed by the 2nd respondent was confirmed.

2. The learned counsel for the respondents 4 to 8 submitted that the writ petition is not

maintainable, in view of the fact that the issue regarding the question of title of immovable property in patta proceedings cannot be interfered with, in exercise of power of this Court under Article 226 of the Constitution of India. The learned counsel also submitted that the petitioner has been one of the allotted owners and he cannot be maintain the writ petition. In any case, the petitioner's father himself has filed the suit in O.S.No.56 of 2006 on the file of District Munsif Court, Periyakulam, Theni District which ended against him.

3. The learned counsel for the respondents 4 to 8 submitted that this Court cannot go into into the veracity of the findings given by the authorities in a patta proceedings. The Division Bench of this Court in the judgment reported in 1995 (1) MLJ 426 Kuppusami Nainar Vs. The District Revenue Officer, Thiruvannamalai and others has observed as follows:

Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Art.226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil court and establish title. As far as the exercise of jurisdiction under Art.226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the writ appeal is dismissed. Consequently, C.M.P.No.15872 of 1994 filed along with the appeal is also dismissed.

4. Therefore in view of the ratio laid down by the Division Bench of this Court, I am of the opinion that the issue raised in the writ petition cannot be adjudicated before this Court. However it is made it very clear that the dismissal of the writ petition will not stand in the way of the parties in working out their rights in the civil proceedings, if any appeal has been filed against the judgment and decree passed in suit in O.S.No.56 of 2006 on the file of the District Munsif Court, Periyakulam, Theni District.

5. The learned counsel for the respondents 4 to 8 submitted that the during of the pendency this writ petition, in contempt application filed by the petitioner a sum of Rs.30,000/- has been paid by the 8th respondent to the credit of the writ petition in the Reserve Bank of India.

6. In as much as the writ petition has been disposed of, the learned counsel for the 8th respondent states that 8th respondent may be directed to withdraw the said amount. At this juncture the learned counsel for the 8th respondent submitted that the 8th respondent is no more and in spite of letter given to the implead the 8th respondent, no steps have been taken. If the 8th respondent is no more, it is upon the legal heirs of the 8th respondent to approach the Reserve Bank of India to withdraw the said amount, after complying with the required formalities.

7. With the above observations, this Writ Petition is disposed of. No costs.
26.10.2010

Index : Yes / No
Internet : Yes / No
adl

To

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Theni District.

M.M.SUNDRESH, J.

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